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**Introduced by Senator Ackerman**

February 8, 2006

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An act to amend Section 511 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 1254, as introduced, Ackerman. Alternative workweek.

Existing law requires that an alternative workweek schedule proposed by an employer be adopted through a  $\frac{2}{3}$  majority vote of the employees in a secret ballot. Existing law also requires the employer to pay overtime compensation to employees who work more than their regularly scheduled hours under the alternative workweek. Employers must also make reasonable accommodations to find a work schedule that does not exceed 8 hours per day for employees who were eligible to vote in the election but are unable to work the alternative workweek hours. Existing law provides that knowing and intentional violation of this provision is a misdemeanor.

This bill would make technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 511 of the Labor Code is amended to
- 2 read:
- 3 511. (a) Upon the proposal of an employer, the employees of
- 4 an employer may adopt a regularly scheduled alternative
- 5 workweek that authorizes work by the affected employees for no
- 6 longer than 10 hours per day within a 40-hour workweek without

1 the payment to the affected employees of an overtime rate of  
2 compensation pursuant to this section. A proposal to adopt an  
3 alternative workweek schedule shall be deemed adopted only if it  
4 receives approval in a secret ballot election by at least two-thirds  
5 of affected employees in a work unit. The regularly scheduled  
6 alternative workweek proposed by an employer for adoption by  
7 employees may be a single work schedule that would become the  
8 standard schedule for workers in the work unit, or a menu of  
9 work schedule options, from which each employee in the unit  
10 would be entitled to choose.

11 (b) An affected employee working longer than eight hours, but  
12 not more than 12 hours in a day ~~pursuant to~~, *under* an alternative  
13 workweek schedule adopted pursuant to this section, shall be  
14 paid an overtime rate of compensation of no less than one and  
15 one-half times the regular rate of pay of the employee for any  
16 work in excess of the regularly scheduled hours established by  
17 the alternative workweek agreement and for any work in excess  
18 of 40 hours per week. An overtime rate of compensation of no  
19 less than double the regular rate of pay of the employee shall be  
20 paid for any work in excess of 12 hours per day and for any work  
21 in excess of eight hours on those days worked beyond the  
22 regularly scheduled workdays established by the alternative  
23 workweek agreement. Nothing in this section requires an  
24 employer to combine more than one rate of overtime  
25 compensation in order to calculate the amount to be paid to an  
26 employee for any hour of overtime work.

27 (c) An employer shall not reduce an employee's regular rate of  
28 hourly pay as a result of the adoption, repeal, or nullification of  
29 an alternative workweek schedule.

30 (d) An employer shall make a reasonable effort to find a work  
31 schedule not to exceed eight hours in a workday, in order to  
32 accommodate any affected employee who was eligible to vote in  
33 an election authorized by this section and who is unable to work  
34 the alternative schedule hours established as the result of that  
35 election. An employer shall be permitted to provide a work  
36 schedule not to exceed eight hours in a workday to accommodate  
37 any employee who was hired after the date of the election and  
38 who is unable to work the alternative schedule established as the  
39 result of that election. An employer shall explore any available  
40 reasonable alternative means of accommodating the religious

1 belief or observance of an affected employee that conflicts with  
2 an adopted alternative workweek schedule, in the manner  
3 provided by subdivision (j) of Section 12940 of the Government  
4 Code.

5 (e) The results of any election conducted pursuant to this  
6 section shall be reported by an employer to the Division of Labor  
7 Statistics and Research within 30 days after the results are final.

8 (f) Any type of alternative workweek schedule that is  
9 authorized by this code and that was in effect on January 1, 2000,  
10 may be repealed by the affected employees pursuant to this  
11 section. Any alternative workweek schedule that was adopted  
12 pursuant to ~~Wage Order-Numbers~~ *Number* 1, 4, 5, 7, or 9 of the  
13 Industrial Welfare Commission is null and void, except for an  
14 alternative workweek providing for a regular schedule of no  
15 more than 10 hours' work in a workday that was adopted by a  
16 two-thirds vote of affected employees in a secret ballot election  
17 pursuant to wage orders of the Industrial Welfare Commission in  
18 effect prior to 1998. This subdivision does not apply to  
19 exemptions authorized pursuant to Section 515.

20 (g) Notwithstanding subdivision (f), an alternative workweek  
21 schedule in the health care industry adopted by a two-thirds vote  
22 of affected employees in a secret ballot election pursuant to  
23 Wage Orders 4 and 5 in effect prior to 1998 that provided for  
24 workdays exceeding 10 hours but not exceeding 12 hours in a  
25 day without the payment of overtime compensation shall be valid  
26 until July 1, 2000. An employer in the health care industry shall  
27 make a reasonable effort to accommodate any employee in the  
28 health care industry who is unable to work the alternative  
29 schedule established as the result of a valid election held in  
30 accordance with provisions of ~~Wage-Orders~~ *Order* 4 or 5 that  
31 were in effect prior to 1998.

32 (h) Notwithstanding subdivision (f), if an employee is  
33 voluntarily working an alternative workweek schedule providing  
34 for a regular work schedule of not more than 10-~~hours~~ *hours*'  
35 work in a workday as of July 1, 1999, an employee may continue  
36 to work that alternative workweek schedule without the  
37 entitlement of the payment of daily overtime compensation for

- 1 the hours provided in that schedule if the employer approves a
- 2 written request of the employee to work that schedule.

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